

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL : MDL NO. 1456
INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION
PRICE LITIGATION : 01-CV-12257-PBS
THIS DOCUMENT RELATES TO :
U.S. ex rel. Ven-a-Care of : Judge Patti B. Saris
the Florida Keys, Inc. :

Abbott Laboratories, Inc., : Chief Magistrate
No. 06-CV-11337-PBS : Judge Marianne B.

Baltimore, Maryland

Friday, September 14, 2007

Videotaped Telephone Deposition of ROBERT NIEMANN

1 to an actual acquisition cost, your proposal was that
2 the ingredient cost be reduced to actual acquisition
3 cost, and a dispensing fee be added in to account for
4 the services provided by the supplier, correct?

5 A. By the pharmacy. Yes. I mean, I see that
6 for pharmacies. I'm not sure about infusion
7 suppliers. But I do see that for pharmacies.

8 Q. If it were an infusion pharmacy, for
9 example. If the enterprise were itself a pharmacy
10 providing infusion services, presumably that pharmacy
11 would receive that dispensing fee, correct?

12 A. I guess so. You're way over my head on
13 this. I mean, pharmacies get it. So you know,
14 whether you're also an infusion company, I guess you
15 would still -- if you're a pharmacy, and you meet all
16 the criteria, I guess you'd get it.

17 Q. Would you agree with me that that addition
18 of a dispensing fee was intended to account for the
19 loss of margin to these providers in going from an
20 AWP system to an AAC system?

21 MS. OBEREMBT: Objection.

22 THE WITNESS: Yes. I think that's right.

1 THE WITNESS: I didn't generally have
2 contact with carriers, so --

3 BY MR. COOK:

4 Q. Did you ever -- do you recall ever
5 discussing that with Mr. Sheridan, whether he would
6 be asking carriers to contact their congressmen
7 regarding an AAC legislative proposal?

8 A. No. I don't.

9 Q. As you read the summary here of Section
10 11236, does that -- can you tell me if that seems to
11 you, from memory, to be an accurate description of
12 the 1998 budget proposal?

13 A. Yes.

14 Q. And the very last sentence indicates that
15 pharmacies would be given a dispensing fee in
16 addition to their acquisition cost, correct?

17 A. In the last paragraph of which?

18 Q. The last sentence of the last paragraph?

19 A. Oh, yes.

20 Q. That indicates, am I correct, that a
21 dispensing fee would be allowed to pharmacies in
22 addition to their acquisition costs?

1 A. **Yes, it does.**

2 Q. And that would have the same purpose as we
3 discussed earlier in going from AWP to AAC, correct?

4 A. **Yes. I think so.**

5 Q. And this is something that you would think
6 that you probably wrote?

7 A. **It's the kind of thing I would have
8 written.**

9 MR. COOK: Is this a good time to break?

10 MS. OBEREMBT: Yes. It's after -- it's
11 4:45 almost.

12 MR. COOK: I'm sorry to have gone over.
13 Should we pull up calendars?

14 THE VIDEOGRAPHER: This concludes today's
15 videotaped deposition of Robert Niemann. Going off
16 the record. The time is 16:40:30.

17 (Whereupon, at 4:40 p.m., the deposition
18 adjourned to be resumed.)

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Signature of the Witness

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7 SUBSCRIBED AND SWORN to before me this _____ day
8 of _____, 2007.

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NOTARY PUBLIC

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12 My Commission expires: _____

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